IN THE

Supreme Court of the United States

The State of Ohio, Plaintiff, vs. The Chattanooga Boiler and Tank Company, a Tennessee Corporation, Chattanoga, Tennessee, Defendant.		No. ..... Original At Law.

ANSWER.

To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States:

For its answer to the petition of the state of Ohio the defendant, The Chattanooga Boiler and Tank Company, admits all of the allegations contained in paragraphs numbered one (1), two (2), three (3), nine (9) and ten (10) in said petition.

With respect to paragraph numbered four (4) of the petition, defendant admits that on or prior to May 5, 1928, William R. Tidwell, deceased, was in the employ of the defendant, and that the defendant was engaged in

the manufacture and construction of boilers and tanks in Chattanooga, Hamilton county, Tennessee; denies that it was engaged in the construction of boilers and tanks in the state of Ohio; admits that it had in its employ on and prior to May 5, 1928, three or more workmen or operatives regularly employed in its business; denies that on and prior to May 5, 1928, or at any other time, it was engaged in doing business in the state of Ohio; admits that on May 5, 1928, three of its regularly employed workmen were engaged, in the city of Ironton, Ohio, in the installation and erection of certain tanks sold by defendant to Ironton By-Products Coke Company.

With respect to the allegations contained in paragraph numbered five (5) of the petition, defendant says that it did not comply with the Workmen's Compensation Act of Ohio either by becoming a subscriber to the state insurance fund or by electing to pay compensation direct to injured employes, as provided in Section 22 of said act, being Section 1465-69 of the General Code of Ohio.

With respect to paragraph numbered six (6) of the petition, defendant denies that the said William R. Tidwell's employment was limited or restricted to the erection and installation in the state of Ohio of certain tanks manufactured by defendant; admits that on May 5, 1928, said Tidwell was engaged in erecting and installing in the city of Ironton, Ohio, one of the tanks manufactured by the defendant in Chattanooga, Tennessee, and while in the course and in the scope of his employment said Tidwell fell from the top of the tank sustaining a fracture at the base of the skull, and as a direct and proximate result of said injury he died on May 6, 1928.

With respect to paragraph numbered seven (7) of the petition, defendant admits that Mrs. Cora Tidwell, widow of William R. Tidwell, filed her application on October 16, 1928, with the Industrial Commission of Ohio, for compensation from the defendant on account of the death of her husband, pursuant to Section 27 of the Workmen's Compensation Act of Ohio, being Section 1465-74 of the General Code of Ohio; that on June 14, 1929, the Industrial Commission of Ohio, after notifying the defendant thereof, heard the application of said Mrs. Cora Tidwell and found and determined that she was wholly dependent on the decedent at the time of his death and that she was entitled to compensation in the amount set forth in said paragraph numbered seven (7). Defendant says that without in any way subjecting itself to the assumed jurisdiction of the Industrial Commission of Ohio, it appeared specially and denied the jurisdiction and authority of said commission to make an award upon said application of Mrs. Cora Tidwell.

Defendant denies all of the allegations of paragraph numbered eight (8) in the petition.

DEFENSE.

For its defense defendant says that substantially all of its business was and is transacted in the state of Tennessee where its plant for the construction and manufacture of boilers and tanks is situated; that when such boilers and tanks were and are sold by the defendant to purchasers in various states the installation and erection of

them was and is necessary in such other states; that the defendant has never had any office or place of business in the state of Ohio.

On or about September 2, 1926, in Chattanooga, Tennessee, defendant entered into an oral contract of employment with said William R. Tidwell, a citizen and resident of Tennessee; that said contract of employment provided and contemplated that the services to be performed by Tidwell were to be performed in the state of Tennessee and such other states as the defendant might from time to time designate.

At the time said contract was entered into defendant had accepted and duly complied with the Workmen's Compensation Act of Tennessee and the said Tidwell also accepted the Act. There was no provision or exception in said contract of employment regarding compensation or damages for injuries sustained during said employment other than the Workmen's Compensation Act of Tennessee.

Wherefore, the defendant prays that this Honorable Court may dismiss the petition and enter a proper judgment for the defendant.

The Chattanooga Boiler and Tank Company,
By HARRY B. ARNOLD,
Its Attorney.

FRANCIS J. WRIGHT,
Of Counsel.

State of Ohio, Franklin County, ss.:

Francis J. Wright, being first duly sworn, deposes and says that he is one of the attorneys for The Chattanooga Boiler and Tank Company, defendant in the above entitled action, and duly authorized in the premises; that defendant is a corporation, and that the admissions, denials and allegations contained in the foregoing answer are true as he verily believes.

Francis J. Wright.

Sworn to before me and subscribed in my presence this nineteenth day of January, 1932.

M. O. MacConathy,

[Seal.] Notary Public Franklin County, Ohio.